In the Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-11

LEWIS GENE FREEMAN, PETITIONER

v.

UNITED STATES OF AMERICA, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

Petitioner, a gun collector to whom out-of-state purchase of firearms was refused because he was not a licensed dealer, brought this suit for declaratory and injunctive relief in the United States District Court for the Southern District of Indiana, asserting (1) that the record-keeping and inspection provisions of the Gun Control Act of 1968, Pub. L. 90-618, 82 Stat. 1213, violate the Ninth Amendment, and (2) that the Act's prohibition of interstate shipment and sale of firearms to non-licensees violates the Second Amendment. The district court dismissed the complaint, and the court of appeals affirmed (App. 42a-45a).

Petitioner's constitutional claims are insubstantial. The licensing requirements and related prohibitions of the Gun Control Act of 1968 do not abrogate the Second Amendment right to keep and bear arms. *Cody* v. *United States*, 460 F. 2d 34, 36-37 (C.A. 8), certiorari denied, 409 U.S. 1010; *United States* v. *Lauchli*, 444 F. 2d 1037, 1041 (C.A. 7), certiorari

denied, 404 U.S. 868; *United States* v. *Wilson,* 440 F. 2d 1068, 1069 (C.A. 6). See also, *United States* v. *Miller,* 307 U.S. 174. Nor do the record-keeping and inspection provisions of the Act infringe upon the Ninth Amendment privacy interests of gun dealers or purchasers. *United States* v. *Biswell,* 406 U.S. 311, 315-316.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ROBERT H. BORK,
Solicitor General.

OCTOBER 1974.